



Judges in the Classroom

Juvenile Justice – Introduction

Source:

Written by Margaret Fisher, Institute for Citizen Education in the Law, Seattle, WA, to complement the *Washington Supplement to Street Law* (8th ed.), and updated in 2010. Staff at the Washington State Administrative Office of the Courts (AOC) edited the lesson. For more information, contact AOC Court Services, 1206 Quince Street SE, PO Box 41170, Olympia, WA 98504-1170.

Objectives:

1. Students will define the legal meaning of juvenile.
2. Students will be able to identify various ways to treat young offenders.
3. Students will be able to identify the current philosophy of the Washington State juvenile justice system.

Grade Level:

Grades 9-12

Time:

One class period (approximately 50 minutes)

Materials:

One copy of Handout 1 (How Should Juveniles Be Treated?) for each student
One copy of Handout 2 (Who Is a Juvenile?) for each student

Procedures:

1. **Begin the class by introducing yourself** and telling a little bit about what you do. Tell students today's class begins with their opinions. Pass out Handout 1. Tell students they have seven minutes to read the statements and mark next to each statement whether they agree (A), disagree (D), or are undecided (U). Inform them they should be prepared to give their answers. Remind students there are no right or wrong opinions, but that they should have reasons for their opinions. Ask students if they understand their assignment.

Note: This lesson assumes the teacher has already introduced criminal law, its purposes, and general nature.
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2. **Debrief student opinions.** Ask several students to provide their opinions and reasons for each statement. Spend about two or three minutes on each statement. After students express their opinions, the judge should inform students of the law and philosophy in Washington State. Indicate that at other times in Washington and presently in some other states, the approach is different than the one presented here. Also, the Washington State Legislature continues to make changes to the law.

Information for Handout 1:

Note: Remember these are not the answers, but they describe the juvenile justice system in Washington State today. Students' opinions are always valid, provided they can give reasons for their opinions.

1. **Statement:** Children who run away from home or who are beyond the control of their parents should be treated the same as juveniles who commit offenses.

Response: False. Originally, (prior to 1978) children who ran away or who were beyond the control of their parents were treated within the same system as children who had committed crimes. In 1978, runaways and children beyond the control of their parents were separated from the juveniles who are offenders. The 1995 Legislative Session modified this 1977 law, in one of its most significant bills. The legislation, known as the "Becca Bill," was named after a runaway child, Rebecca Hedman, who died while on the run in Washington State.

The law governs at-risk youth, runaways, crisis residential centers, mental health and substance abuse treatment for juveniles, truancy, and other issues affecting non-offender youth and their families. The purpose of the law is to strengthen parental control of children. It requires that secure facilities be provided for chronic runaways whose behavior puts them in danger.

Due to budget cuts, the number of these facilities and the beds available statewide has decreased. As of August 2011, there are 35 total beds available in the State in secure crisis residential centers, with seven of these beds part of a separate section in a juvenile detention facility.

2. **Statement:** Juveniles who commit an offense should get the same penalty as other juveniles who commit the same offense.

Response: False. One of the goals of the 1978 law was to correct a problem where juveniles who had committed identical crimes were being sentenced very differently by different judges. The new sentencing (called dispositional) guidelines were designed to be predictable, so that juveniles would know what penalty went with each offense. However, in addition to the seriousness of the offense, the criminal history of the juvenile influences what penalty any individual offender will receive. So under the standard range for offenses, a juvenile who has committed offenses in the past may get a different penalty from a juvenile who is being charged for the first time, even though they both committed the same offense.

Remember, though, there should be system-wide consistency in the level of penalties ordered for juveniles with the same current and past offenses.

3. **Statement:** It is unfair to give a juvenile a greater penalty for an offense because the juvenile has committed other offenses in the past.

Response: False. Prior criminal history is a key factor in determining what specific penalty to impose on a juvenile. One of the three values of the Washington State approach to juvenile justice is community safety. The number of prior offenses is a key predictor of who will offend again.

4. **Statement:** Victims of crimes should have more rights than juveniles who have harmed them.

Response: There is no real question of more or less rights. In fact, Washington State law reflects a national trend to identify the rights of victims. As part of the notion of juvenile accountability, victims should be compensated by the juveniles paying the victims for the injuries they inflicted. As part of community safety, victims may exercise the right to be notified if a juvenile who has injured them is being released from confinement.

5. **Statement:** Judges should be free to decide which sentence best fits each individual, taking into account the circumstances of each individual.

Response: False. One of the problems identified above is that different judges were giving out radically different penalties to juveniles around the state who were in similar circumstances. The dispositional guidelines now limit the freedom or discretion of judges to impose disposition. There is now established a standard range of penalties for each offense that takes into account an offender's past criminal history and the severity of the present offense(s).

Judges do have some flexibility in that they may go outside this standard range by declaring a "manifest injustice." This manifest injustice may be declared because the standard range would result in too harsh a penalty on the juvenile or because it may be too lenient and not take into account the safety of the public. Use of manifest injustice must be justified in writing and is subject to appeal to a higher court.

Also, juveniles involved in certain sex and drug offenses may be eligible for certain treatment sentencing. In other cases, juveniles may have their dispositions suspended, subject to conditions.

6. **Statement:** The juvenile justice system should be used as a way to put youths in programs like alcohol and drug counseling in which they otherwise would not participate.

Response: False. While youth development and treatment are major components of the Washington Juvenile Justice Model, the use of punishment under the guise of rehabilitation is specifically rejected. It is unjust and undercuts the significance of the

crime committed. The model calls for educational and treatment services only after fairly-determined penalties have been developed.

7. **Statement:** Accountability (being held responsible) is the most important part of a juvenile justice system.

Response: True. In Washington State, the most important component of the Youth Justice Model is accountability – accountability of youth for their behavior and accountability of the community for fair and prompt imposition of sanctions.

8. **Statement:** Juveniles who break the law should be treated the same as adults who break the law.

Response: False. While the Washington State system comes closer to treating juveniles like adults than many other state systems in stressing accountability, it does recognize there are differences between adults and juveniles. Therefore, the dispositional guidelines and treatment services include consideration that juveniles can improve their behavior more easily than adults.

As of 1994, juveniles who are 16 and 17 are transferred directly to adult court when they commit serious violent crimes or violent crimes when they have certain criminal histories.

The U.S. Supreme Court has ruled that sentencing persons who committed their crimes before the age of 18 cannot be given the death penalty, life imprisonment without parole for non-murder cases, and no mandatory life imprisonment without parole for murder cases. The Court believes that for juveniles these sentences amount to cruel and unusual punishment.

9. **Statement:** Juveniles should be accountable for their crimes starting at age six.

Response: False. In Washington, juveniles cannot be held accountable for crimes before the age of eight. In addition, juveniles are presumed unable to commit a crime between the ages of 8 and 12; although, this presumption can be overcome by the prosecutor showing that the juvenile understood what they were doing and were able to tell the difference between right and wrong.

10. **Statement:** Juveniles should be subject to the death penalty for certain crimes.

Response: False. Recognizing the differences between juveniles and adults, the U.S. Supreme Court has ruled that juveniles who commit homicides prior to their 18th birthday cannot be sentenced to death. Likewise, they cannot be sentenced to life in prison without parole for non-homicide offenses nor be subject to a mandatory life in prison without parole.

11. **Statement:** Juvenile hearings should be open to the public.

Response: True. In Washington State, juvenile hearings are open to the public. More states have moved to open hearings to the public, especially when the juvenile's crime

involved violence or sex.

3. **Brainstorm with the students** the definition of a juvenile. In Washington State, a juvenile is any individual between the ages of 8 and 18 and who has never been transferred to adult court. Persons younger than 8 years of age cannot commit offenses in Washington. Persons between 8 and 12 years of age are presumed to be incapable of committing a crime, but this presumption may be removed by proof that they are able to understand the act or omission and know that it was wrong.

Tell the students that sometimes the juvenile court has authority over individuals who are 18 years of age and older. These persons are called juvenile offenders. The Juvenile Court and the Department of Social and Health Services can handle these persons when it is necessary to carry out the disposition. However, neither the Juvenile Court, nor the Department of Social and Health Services has authority over individuals beyond their 21st birthday.

The juvenile court can never handle offenses that are claimed to have been committed by a person 18 years or older.

4. **Check for student understanding** of the definition of juvenile by using Handout 2. Ask students to work in pairs. Tell students they have 10 minutes to decide whether or not these persons are juveniles.

Information for Handout 2:

Hypothetical 1: Claire is 15 years old. She and her 18-year-old brother, Daryl, go to the shopping mall together. Daryl convinces Claire to shoplift a part he needs to repair his car; she puts it in her vest. They are both caught.

- a. Can Claire be tried in juvenile court? Why or why not?

Yes, Claire can be tried in juvenile court since she is under 18.

- b. Can Daryl be tried in juvenile court? Why or why not?

No, Daryl was 18 at the time he committed the crime, so he will be tried in adult court.

Hypothetical 2: Jamie and his friend Pat are both 17 years old. They are caught driving a car they took without permission. Jamie turns 18 one week after his arraignment. Pat is found guilty at his fact-finding hearing (trial), and based on his prior adjudications, the court orders that he spend 20 weeks in confinement. After Pat has spent 8 weeks in confinement, he turns 18.

- a. Can Jamie's adjudicatory hearing (trial) take place in juvenile court?

Jamie's case may be heard by the juvenile court if the court enters a written order setting out its reasons to extend its authority over Jamie.

- b. Will Pat be transferred from the facility operated by the Department of Social and Health Services (DSHS) at the time he turns 18?

No, Pat will not be transferred from the DSHS facility. An automatic extension occurs when an individual turns 18 while in a juvenile facility; the extension allows the juvenile facility to continue to confine persons over 18 years old (but no older than 21).

Hypothetical 3: Damian, who is 17 years old, is charged with second degree murder.

- a. Does the juvenile court have authority to handle Damian's case?

No. Damian is charged with a serious violent offense. Juveniles aged 16 and 17 who are charged with serious violent offenses are automatically transferred to adult court. Serious violent offenses include murder 1 and 2, homicide by abuse, assault 1, kidnapping 1, rape 1, and assault of a child, or attempt, criminal solicitation, or criminal conspiracy to commit any of these offenses. Also juveniles with certain criminal histories who are charged with violent offenses are transferred directly to adult court. Juveniles charged with robbery 1, rape of a child 1, drive-by shooting, or burglary 1 committed after July 1, 1997, are transferred automatically, as are juveniles who commit any violent offense with a firearm.

- 5. Explain that in some cases,** the juvenile court has authority to hear the case, but it declines (decides not) to do so. In these cases, the case is "remanded" or transferred to adult court. The juvenile no longer is considered a juvenile, and if s/he commits further offenses, s/he will also be tried in adult court.

Juveniles 16 and 17 years old who commit serious violent offenses, violent offenses when they have certain criminal histories, or who commit violent offenses with a firearm will be transferred directly to adult court. There will not be a decline hearing.

In other cases, when there is a question about transferring a case to adult court, a decline hearing is generally held; although, the court, parties, and their counsel may waive (give up) this hearing.

Juveniles who remain in the juvenile system have a court system that has been set up to handle only juvenile cases. This court system is not the same as the adult court system.

- 6. Conclude by reviewing the objectives.** As a follow-up activity, the teacher could take the class to juvenile court, which is especially appropriate if you are the judge who sits in juvenile court.

Handout 1

How Should Juveniles Be Treated? Opinion Poll

Directions: Read the statements below and decide whether you **agree** (A), **disagree** (D), or are **undecided** (U). Be prepared to give reasons for your opinions. There are no right or wrong answers; every opinion is good when you can give reasons for that opinion.

- _____ a. Children who run away from home or who are beyond the control of their parents should be treated the same as juveniles who commit offenses.
- _____ b. Juveniles who commit an offense should get the same penalty as other juveniles who commit the same offense.
- _____ c. It is unfair to give a juvenile a greater penalty for an offense because the juvenile has committed other offenses in the past.
- _____ d. Victims of crimes should have more rights than juveniles who have harmed them.
- _____ e. Judges should be free to decide which sentence best fits each individual, taking into account the circumstances of each individual.
- _____ f. The juvenile justice system should be used as a way to put youths in programs like alcohol and drug counseling in which they otherwise would not participate.
- _____ g. Accountability (being held responsible) is the most important part of a juvenile justice system.
- _____ h. Juveniles who break the law should be treated the same as adults who break the law.
- _____ i. Juveniles should be accountable for their crimes starting at age six.
- _____ j. Juveniles should be subject to the death penalty for certain crimes.
- _____ k. Juvenile hearings should be open to the public.

Handout 2

Who Is A Juvenile?

Directions: Decide whether or not each of the following persons is a juvenile and answer the questions below each case or hypothetical.

1. Claire is 15 years old. She and her 18-year-old brother, Daryl, go to the shopping mall together. Daryl convinces Claire to shoplift a part he needs to repair his car; she puts it in her vest. They are both caught.
 - a. Can Claire be tried in juvenile court? Why or why not?
 - b. Can Daryl be tried in juvenile court? Why or why not?
2. Jamie and his friend Pat are both 17 years old. They are caught driving a car they took without permission. Jamie turns 18 one week after his arraignment. Pat is found guilty at his adjudicatory hearing (trial), and based on his prior adjudications, the court orders that he spend 20 weeks in confinement. After Pat has spent 8 weeks in confinement, he turns 18.
 - a. Can Jamie's adjudicatory hearing (trial) take place in juvenile court?
 - b. Will Pat be transferred from the facility operated by the Department of Social and Health Services at the time he turns 18?
3. Damian, who is 17 years old, is charged with second degree murder. Does the juvenile court have authority to hear his case?